



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Kenneth Tucker, et al Confirmation No.: 1989
Serial No. 09/813,214 Art Unit: 1645
Filed: 03/20/2001 Examiner: Shahnan-Shah, Khatols
For: *Moraxella Catarrhalis* Outer Attorney Docket No.: 089-999
Membrane Protein-106
Polypeptide, Gene Sequence and
Uses Thereof

SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure provisions of 37 C.F.R. § 1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

1. Enclosures accompanying this Information Disclosure Statement are:

- 1a. ☐ A list of all patents, publications, applications, or other information submitted for consideration by the office. Copies of all listed references have already been provided with the parent application serial no. _____, filed _____ under the benefit of 35 U.S.C. § 120.
- 1b. A legible copy of:
- ☐ Each U.S. patent application publication and U.S. and foreign patent;
- ☒ Each publication or that portion which caused it to be listed on the PTO-1449;
- ☐ For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or portion of the application which caused it to be listed on the PTO-1449 including any claims directed to that portion;
- ☐ all other information or portion which caused it to be listed on the PTO-1449.
- 1c. ☐ An English language copy of search report(s) from a counterpart foreign application or PCT International Search Report.

- 1d. ☐ Explanations of relevancy (ATTACHMENT 1(d), hereto) or English language abstracts of the non-English language publications.
2. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(b):
- ☐ Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);
- ☐ Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;
- ☐ Before the mailing of the first Office action on the merits;
- ☐ Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.
3. ☒ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(c) after the period specified in 37 C.F.R. §1.97(b), but before the mailing date of any of a final action under 37 C.F.R. §1.113, a notice of allowance under 37 C.F.R. §1.311 or an action that otherwise closes prosecution in the application.

(Check either Item 3a or 3b)

- 3a. ☒ The Certification Statement in Item 5 below is applicable. Accordingly, no fee is required.
- 3b. ☐ The \$180.00 fee set forth in 37 C.F.R. §1.17(p) in accordance with 37 C.F.R. §1.97(c) is:
- ☐ enclosed
- ☐ to be charged to Foster, Swift, Collins & Smith, P.C. Deposit Account No. 502197.

(Item 3b to be checked if any reference known for more than 3 months)

4. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(d) after the period specified in 37 C.F.R. §1.97(c), but on or before the date of payment of the issue fee.

The \$180.00 fee set forth in 37 C.F.R. §1.17(p) is:

- ☐ enclosed.
- ☐ to be charged to Foster, Swift, Collins & Smith, P.C. Deposit Account No. 502197.

The Certification Statement in Item 5 below is applicable.

5. ☒ Certification Statement (applicable if Item 3a or Item 4 is checked)


(Check either Item 5a or 5b)

- 5a. ☐ In accordance with 37 C.F.R. §1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- 5b. ☒ In accordance with 37 C.F.R. §1.97(e)(2), it is certified that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the undersigned after making reasonable inquiry, was known by any individual designated in 37 C.F.R. §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.
6. ☐ This application is a continuation application under 37 C.F.R. §1.60 or §1.53(b) or (d).
(Check appropriate Items 6a, 6b and/or 6c)
- 6a. ☐ A Petition to Withdraw from issue under 37 C.F.R. §1.313(b)(5) is concurrently filed herewith.
- 6b. ☐ Copies of publications listed on Form PTO-1449 from prior application Serial _____ filed on _____, of which this application claims priority under 35 U.S.C. §120, are not being submitted pursuant to 37 C.F.R. §1.98(d).
- 6c. ☐ Copies of the publications listed on Form PTO-1449 were not previously cited in prior application Serial No. _____, filed on _____, and are provided herewith.
7. ☐ This is a Supplemental Information Disclosure Statement. (Check Item 7a)
- 7a. ☐ This Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(f) supplements the Information Disclosure Statement filed on _____. A bona fide attempt was made to comply with 37 C.F.R. §1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on _____.
8. ☐ In accordance with 37 C.F.R. §1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:
(Check Item 8a, 8b, or 8c)
- 8a. ☐ satisfied because all non-English language publications were cited on the enclosed English language copy of the PCT International Search Report or the search report from a counterpart foreign application indicating the degree of relevance found by the foreign office.
- 8b. ☐ set forth in the application.
- 8c. ☐ enclosed as an attachment hereto.

9. ☒ The Commissioner is authorized to charge any additional fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Foster, Swift, Collins & Smith, P.C. Deposit Account No. 502197.
10. ☒ No admission is made that the information cited in this Statement is, or is considered to be, material to patentability nor a representation that a search has been made (other than a search report of a foreign counterpart application or PCT International Search Report if submitted herewith). 37 C.F.R. §§1.97(g) and (h).

Respectfully submitted,


Date: January 24, 2005


Robert C. Casad, Ph.D. (Reg. No. 51,535)
FOSTER, SWIFT, COLLINS & SMITH, P.C.
313 South Washington Square
Lansing, Michigan 48933
(517) 371-8293

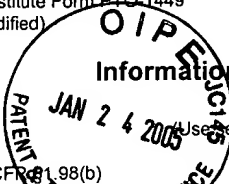
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I hereby certify that this correspondence is being deposited with the United States Postal Service Express Mail Service with sufficient postage in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Date: January 24, 2005


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| Substitute Form PTO 1449 (Modified)  Information Disclosure Statement by Applicant (Use several sheets if necessary) 37 CFR 1.98(b) | U.S. Department of Commerce Patent and Trademark Office | | Attorney's Docket No. 089-999 | Application No. 09/813,214 |
| | Applicant Kenneth Tucker, at al | | | |
| | Filing Date 03/20/2001 | Group Art Unit 1645 | | |

U.S. Patent Documents

| Examiner Initial | Desig. ID | Patent Number | Issue Date | Patentee | Class | Subclass | Filing Date If Appropriate |
|------------------|-----------|---------------|------------|---------------|-------|----------|----------------------------|
| | BE | 6,706,269 B1 | 03-16-2004 | Ruelle et al. | | | |
| | BF | 6,764,834 B1 | 07-20-2004 | Ruelle | | | |
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Foreign Patent Documents or Published Foreign Patent Applications

| Examiner Initial | Desig. ID | Document Number | Publication Date | Country of Patent Office | Class | Subclass | Translation | |
|------------------|-----------|-----------------|------------------|--------------------------|-------|----------|-------------|----|
| | | | | | | | Yes | No |
| | | | | | | | | |

Other Documents (include Author, Title, Date, and Place of Publication)

| Examiner Initial | Desig. ID | Document |
|------------------|-----------|---|
| | BG | Sethl, S., et al, Antigenic heterogeneity and molecular analysis of CopB of Moraxella (Brunhamella) catarrhalis. Infection and Immunity (1997) 65(9):3666. |
| | BH | Hays, J., et al, Total genome polymorphism and low frequency of intra-genomic variation in uspA1 and uspA2 genes of Moraxella catarrhalis in otitis prone and non-prone children up to two years of age. Vaccine (2003), 21:1118. |
| | BI | Vretou, E., et al, Identification of protective epitopes by sequencing of the Major Outer Membrane Protein gene of a variant strain of Chlamydia psittaci serotype 1. Infection and Immunity (2001) 69(1):607. |
| | BJ | Westbay, T.D., et al, Dissociation of immune determinants of Outer Membrane Proteins of Chlamydia psittaci strain guinea pig inclusion conjunctivitis. Infection and Immunity (1994) 62(12):5614. |
| | BK | Brunham, R., et al, Chlamydia trachomatis antigens: role in immunity and pathogenesis. Infectious Agents and Disease (1994) 3(5):218. |
| | BL | Zhang, Y., et al, Comparison of the Major Outer Membrane Protein (MOMP) gene of mouse pneumonitis (MoPn) and hamster SFPD strains of Chlamydia trachomatis with other Chlamydia strains. Mo. Biol. Evol. (1993), 10(6):1327. |

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| Examiner Signature | Considered |
| EXAMINER: Initials citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. | |